

*State of Michigan*

*Office of  
Children's  
Ombudsman*

*Annual Report  
2003-2004*



JENNIFER M. GRANHOLM  
GOVERNOR

STATE OF MICHIGAN  
OFFICE OF CHILDREN'S OMBUDSMAN  
LANSING

MICHAEL R. HARMON  
ACTING DIRECTOR

September 2005

The Honorable Jennifer Granholm, Governor  
Ms. Marianne Udow, Director, Department of Human Services  
Honorable Members of the Michigan Legislature

I am pleased to submit the 2003-2004 Annual Report of the Office of Children's Ombudsman, as provided in The Children's Ombudsman Act, 1994 Public Act 204, section 10(5), which states, "*The Ombudsman shall submit to the governor, the director of the department, and the legislature an annual report on the conduct of the Ombudsman, including any recommendations regarding the need for legislation or for change in rules or policies.*"

This report provides an overview of the activities of the Office of Children's Ombudsman from October 1, 2003 to September 30, 2004 and includes an analysis of the complaints received and investigated by the Office of Children's Ombudsman. This year's report also contains recommendations for implementing strategies to achieve timely permanency for children, increasing the frequency and quality of parenting time for very young children, and maintaining stable placements and family relationships for children in foster care.

The staff of the Office of Children's Ombudsman appreciates the leadership and support of Governor Jennifer Granholm, the Department of Human Services, and the Michigan Legislature. Thank you for the opportunity to serve the children of Michigan.

Respectfully submitted,

Michael R. Harmon  
Acting Children's Ombudsman

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# **Office of Children's Ombudsman**

## **MISSION STATEMENT**

*The mission of the Office of the Children's Ombudsman is to assure the safety and well-being of Michigan's children in need of foster care, adoption, and protective services and to promote public confidence in the child welfare system. This will be accomplished through independently investigating complaints, advocating for children, and recommending changes to improve law, policy, and practice for the benefit of current and future generations.*

# Office of Children's Ombudsman

## *Conduct of the Office*

This annual report discusses the work of the Office of Children's Ombudsman (OCO) during the fiscal year October 1, 2003, to September 30, 2004. The report consists of four sections: Conduct of the Office; Complaint Analysis; Complaint Process and Investigations; and Recommendations.

### *Legal Authority*

The Office of Children's Ombudsman (OCO) was established by The Children's Ombudsman Act, 1994 Public Act 204, Michigan Compiled Laws (MCL) 722.921, et seq. The OCO is an autonomous state agency with statutory authority to independently investigate complaints regarding children who are involved with the Michigan Department of Human Services (MDHS)<sup>1</sup> and private child-placing agencies. The Children's Ombudsman Act specifically requires the ombudsman to "monitor and ensure compliance" with laws, rules and policies related to children's protective services, foster care, and adoption. In addition, the ombudsman is charged with making recommendations to Michigan's Governor, Legislature, and MDHS for changes in laws, rules, and policies to improve outcomes for children involved in the child welfare system.

### *Budget*

The appropriation for the fiscal year 2003-2004 was \$1,215,100. The principal expenditures were for personnel, office facilities, and technology. The OCO has 12 full-time employees, including the ombudsman, eight investigators, a supervising investigator, and two administrative staff. There are OCO offices in Lansing and Detroit.

### *Multi-Disciplinary Team*

The OCO has a multi-disciplinary team approach to case investigations. Investigators have diverse professional backgrounds and a broad range of experience in child welfare, including protective services, foster care supervision and licensing, law enforcement, legal practice, and family support services. Many OCO investigators have advanced degrees and all investigators receive ongoing training in matters related to child welfare.

### *Performance Audit*

In February 2004, the Auditor General issued a report on the performance audit of the Office of Children's Ombudsman. The report concluded that the OCO was effective in assuring the safety and well-being of

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<sup>1</sup> Formerly the Family Independence Agency. The name of the department was changed by executive order, effective March 15, 2005.



children in need of foster care, adoption and protective services. The report also concluded that the OCO complied with applicable laws, policies and procedures when processing and investigating complaints.

The report documented one reportable finding related to database controls and enhancements. It was recommended that the OCO develop documentation standards and improve database controls to ensure accurate and complete data and to track data changes. It was also recommended that the OCO enhance the recording and compiling of complaint and investigation data within the database. The OCO agreed with the recommendations, and implemented new procedures and completed database enhancements as recommended in the audit report.<sup>2</sup>

### ***Collaboration and Outreach***

The OCO meets regularly with the MDHS Office of Family Advocate and MDHS Central Office administration to discuss issues related to child welfare, such as proposed policy changes and program enhancements, OCO recommendations, or concerns arising from individual case investigations. MDHS also seeks OCO input and assistance on issues related to child welfare policy and practice.

The OCO meets on a quarterly basis with the Child Welfare Services division of the State Court Administrative Office (SCAO) to discuss initiatives related to child welfare and the courts, including efforts such as the Supreme Court's Court Improvement Program aimed at improving permanency outcomes for children.

The Ombudsman and OCO investigators serve on many boards and committees, including the governor's Children's Action Network; MDHS Program Improvement Plan committees; MDHS Public Private Partnership Initiative committees; Foster Care Review Boards; the Child Death Review State Advisory committee and Child Support Leadership Council. The OCO currently hosts the bimonthly meetings of the Michigan chapter of the American Professional Society on the Abuse of Children and its Medical Advisory committee.

The Ombudsman and OCO investigators participate in a variety of trainings and conferences related to child welfare. The OCO collaborated with the Governor's Task Force on Children's Justice, SCAO, MDHS and Department of Education in planning a multi-disciplinary conference in March 2005 on Meeting the Educational Needs of Children in Foster Care. In addition, the Ombudsman and OCO staff gave informational presentations to state and private agencies and organizations during this report period.

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<sup>2</sup> The last phase of the recommended database enhancements was completed in February 2005.

## ***Complaint Analysis***

The primary responsibility of the Office of Children's Ombudsman is to receive and investigate complaints from individuals concerning children who are involved with Michigan's child welfare system for reasons of abuse and neglect.

Many of the complaints and inquiries made to the OCO fall outside the authority of the agency and the OCO spends a significant amount of time helping people understand the complex laws, rules and policies that govern the child welfare system. The OCO routinely provides callers with verbal or written information and referrals to other agencies or organizations, when appropriate, to help resolve callers' concerns.

During the report period October 1, 2003, through September 30, 2004, the OCO received 801 complaints and inquiries involving 1,419 children from 78 of Michigan's 83 counties.

### ***Confidentiality***

The OCO is required by law to keep the identity of complainants confidential unless the complainant gives the OCO specific permission to reveal his or her identity. The OCO's investigative records are confidential and are exempt from disclosure under the Freedom of Information Act (FOIA), and are not subject to court subpoena.

### ***Complaint Sources***

Section 5 of the Children's Ombudsman Act outlines those individuals who can legally file a complaint with the OCO. Statutory complainants in fiscal year 2003-2004 included:

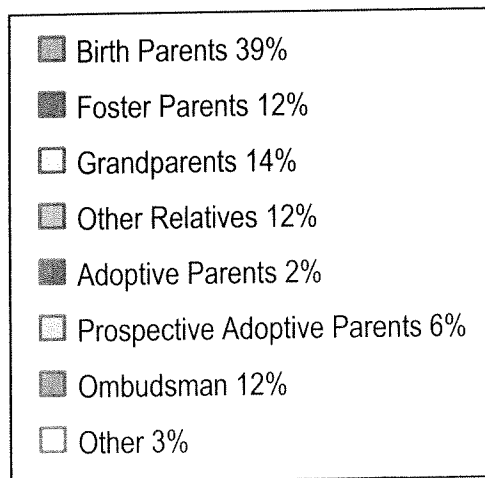
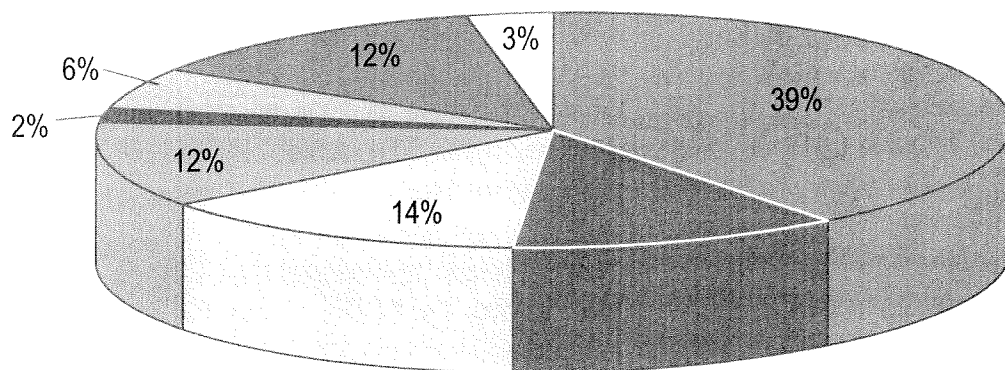
- A child who is able to articulate a complaint.
- The child's biological parent.
- A foster parent.
- An adoptive or prospective adoptive parent.
- A legal guardian of the child.
- The Guardian Ad Litem of the child.
- An adult related within the fifth degree by blood, marriage, or adoption.
- A Michigan Legislator.
- An attorney for any of the above.
- The Children's Ombudsman.

The Ombudsman has the discretionary authority to open a complaint made by any individual not listed as a statutory complainant. The Ombudsman may also open a case upon his or her initiative.

During this report period:

- The majority of complainants were birth parents 275 (39 percent), followed by relatives 178 (26 percent), and foster parents 81 (12 percent).
- The Ombudsman was identified as the complainant on 84 cases.

**Sources of Complaints**



## ***Complaint Process and Investigations***

### ***Complaint Process***

All complaints that fall within the statutory guidelines of The Children's Ombudsman Act are brought to the attention of the Ombudsman. The Ombudsman has discretionary authority to determine whether a complaint will be investigated and the scope of the investigation. The Ombudsman may advise complainants to pursue existing remedies before determining whether a full investigation is warranted.

Complaints generally fall into one of three categories: Inquiries, Referrals, and Valid Complaints.

**Inquiries** are requests for information, or general concerns about aspects of the child welfare system, or specific complaints that the OCO has no statutory authority to investigate, such as custody matters, child support, school issues, or juvenile delinquency.

- During this report period 130 complaints were classified as inquiries.

**Referrals** are complaints that concern a child involved with protective services, foster care or adoption, but involve the actions of an agency or person the OCO is not authorized to investigate, such as the court, law enforcement, or an attorney.

- During this report period 176 complaints were classified as referrals.

**Valid Complaints** are complaints the OCO has the statutory authority to investigate and that meet investigation criteria established by the OCO. These complaints concern the actions or inactions of MDHS or a private child-placing agency related to a child who is involved with protective services, foster care, or adoption. Case investigations are time-intensive and involve a comprehensive review of case file documentation, interviews with agency staff and other sources as needed, and may also include additional activities such as case conferences or court appearances.

- During this report period 103 complaints were opened for investigation. Of these complaints, 48 involved CPS, 17 involved foster care, three involved adoption services, and 35 involved a combination of one or more of those categories.

Not all valid complaints are opened for investigation. The OCO has established a complaint category, "Valid Complaint-Not Opened" to identify complaints the OCO has statutory authority to investigate but do not meet OCO criteria for investigation. These complaints might concern events that occurred many years prior, or involve issues that have since been addressed through new policy or law. Some complainants may request an outcome the OCO cannot provide, such as restoration of parental rights, disciplining a worker, or in some cases the complainant may disagree with the agency's actions even though there was no violation of law and policy.

- During this report period 315 complaints were classified as valid complaints-not opened.



## Investigations

### Preliminary investigations

Some complaints may require additional information before the OCO can determine whether an investigation is appropriate or warranted. Preliminary investigations may include contact with MDHS or private agency staff or other sources, or obtaining and reading specific case file documents, such as investigation reports, service plans, or court petitions.

- During this report period the OCO completed 72 preliminary investigations and assigned 15 for a full investigation.

### Requests for Action

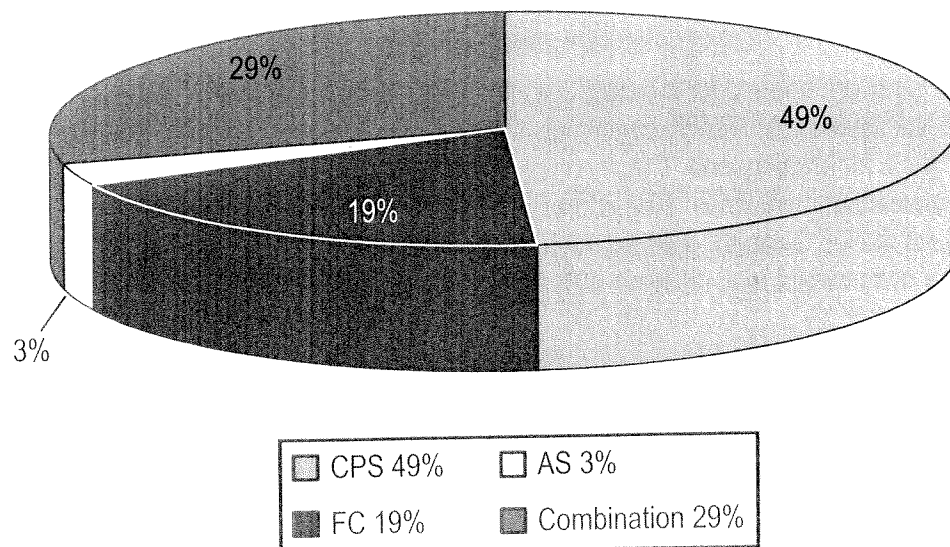
A Memorandum of Understanding between the OCO and MDHS allows the OCO to request immediate action from MDHS when the OCO believes a child is at immediate risk of harm, or a child is in an inappropriate placement, or there is evidence of employee misconduct. MDHS responds to the Request for Action within five business days with the results of their intervention and a time frame for completion of the requested action.

- During this report period the OCO submitted 15 Requests for Action.

### Completed Investigations

During this report period, the OCO completed 136 investigations involving 546 children in 49 of Michigan's 83 counties. Of these investigations 69 involved protective services (49 percent), 28 involved foster care (20 percent), 3 involved adoption services (2 percent) and 40 involved a combination of one or more categories (29 percent).

**Closed Investigated Cases by Case Type**



## **Case investigations result in one of the following outcomes:**

**Affirmations** – The OCO concludes that the agency complied with law, rule, and policy and a closing letter is sent to the complainant and the involved agency affirming the agency's actions.

- During this report period 59 investigations resulted in case affirmations.

**Administrative Resolutions** – In some cases the issues that brought the complaint to the OCO are resolved by the agency after the OCO has commenced an investigation. For example, the OCO may request an action by the agency, such as considering a relative for placement or changing a permanency goal. If the requested action is completed and the OCO determines that there are no additional matters that require attention, the case is closed as an administrative resolution. A closing letter is sent to the complainant outlining the actions taken by the OCO and the involved agency.

- During this report period 6 investigations resulted in administrative resolutions.

**Exceptional Closings** – In some instances, a complainant may withdraw a complaint and request that the investigation be terminated, or the OCO determines that continued involvement by the OCO will not affect the outcome of the case. A closing letter is sent to the agency and the complainant outlining the reason for case closure.

- During this report period 11 investigations resulted in exceptional closings.

**Report of Findings and Recommendations (F&R)** – If the OCO concludes that the agency did not comply with law, rule, and/or policy, or agency actions and decisions were not consistent with the case facts or the child's best interest, a report of Findings and Recommendations (F&R) is issued to MDHS and/or the involved child-placing agency. The involved agency has 60 days to review and respond in writing to the findings and recommendations outlined in the OCO report. Recommendations issued by the OCO may include training for staff on a particular MDHS policy or practice; consideration for a change of action consistent with the child's needs and case facts; changes to laws and MDHS policies, or new or amended laws and MDHS policies to better protect children.

- During this report period 60 investigations resulted in reports of findings and recommendations.

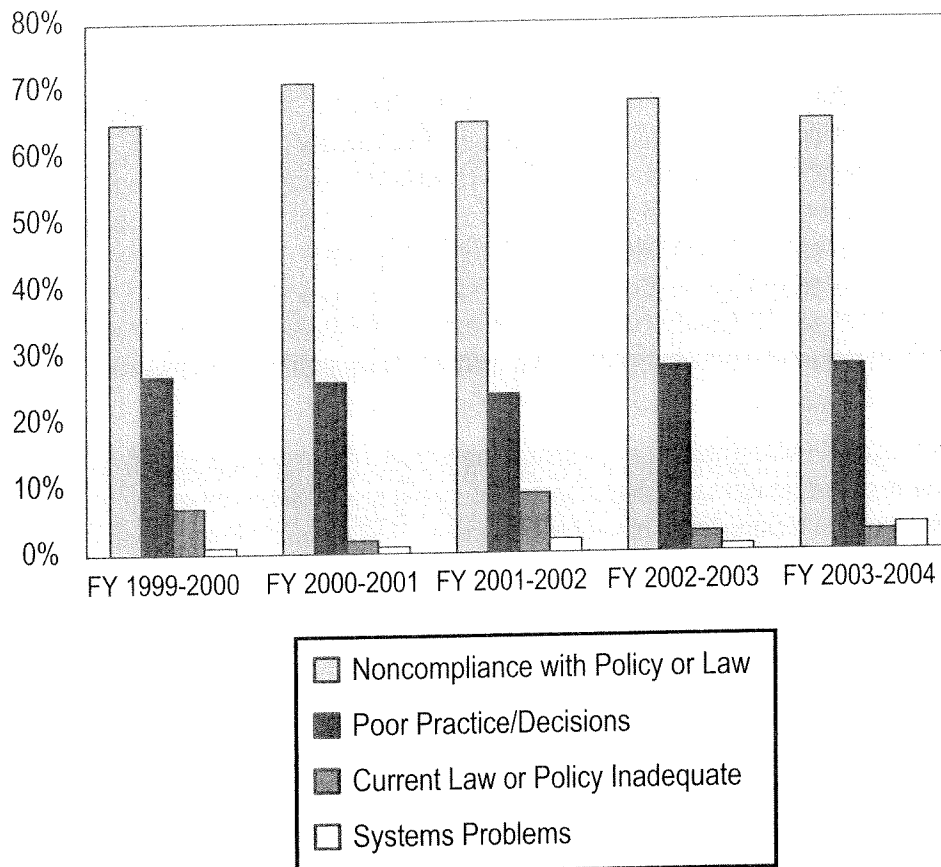
## *Analysis of Findings*

Sixty reports of Findings and Recommendations were issued to MDHS and/or private child-placing agencies during this reporting period. The reports included a total of 237 individual findings and corresponding recommendations. The findings were grouped into four main categories:

- **Non-compliance with law or policy (154 Findings)**
- **Poor practice/decision making (68 Findings)**
- **Current policy/law inadequate (7 Findings)**
- **Systems problems (8 Findings)**

Consistent with the OCO's findings over the past six years, noncompliance with existing laws and policies continues to represent the largest category of findings, followed by poor practice and decision-making. Systems issues or inadequate laws and policies were less likely to contribute to case mishandling.

### Summary of Findings



### Prevalent Findings

An analysis of the findings and recommendations made by the OCO during the report period shows that the following issues were most frequently cited in reports of Findings and Recommendations.

#### Children's Protective Services

- **Verifying the safety and well-being of all children:** CPS policy requires a worker to assess the safety and well-being of all children in a family during all investigations, even when only one child is alleged to have been mistreated. Noncompliance with this policy has been highlighted in four consecutive OCO annual reports as a prevalent finding.
- **Supervisory oversight:** CPS policy requires supervisors to review workers' reports, service plans, and other documents to assure accurate completion of documents, review decision making, and

allow timely correction of any errors. The OCO continues to find instances where supervisory oversight did not occur or did not occur within appropriate time frames. This finding has also been cited in four previous annual reports.

- **Coordination with law enforcement:** Law and MDHS policy require CPS to coordinate their investigations with law enforcement in certain circumstances, including allegations of sexual abuse or serious physical injury. The OCO continues to review cases where CPS did not coordinate its investigation with law enforcement.
- **CPS investigations:** CPS workers are required to thoroughly investigate complaints of abuse and neglect and consider all relevant evidence when determining whether a preponderance of abuse or neglect exists. At the conclusion of an investigation, the worker is required to assign a category to the complaint based on the facts and evidence. The OCO continues to review cases where the investigation was not thorough, or the investigation was not completed within required time frames, or the disposition of the complaint was inconsistent with the case facts and documented evidence.

#### *Foster Care*

- **Timely permanency:** Federal and state laws mandate time frames for achieving permanency for children in foster care. Law and policy require workers to document compelling reasons for an extension of the mandatory time frame and/or a change in permanency plan. Achieving timely permanency for children continues to be an identified finding in OCO investigations and was highlighted in 15 findings during this report period.
- **Relative placement and required documentation:** Workers are required to identify and study suitable relatives for placement of a child within 90 days of the child's entry into foster care. The results of the relative home study are documented on an MDHS-31 form and provided to the interested parties in a case as well as to the relative. The OCO continues to investigate cases where relatives were not considered for placement, or did not receive a copy of the MDHS-31, contrary to policy. Nine findings were reported during this fiscal year.
- **Placement and replacement of children:** Maintaining a stable placement for a child and his or her siblings enhances physical and emotional well-being. The OCO continues to review cases where siblings are separated or the separation is maintained without adequate justification, or children are moved for inappropriate reasons or without proper notification to the child's caregivers and the Foster Care Review Board. Seven findings were reported during this fiscal year.
- **Meeting children's identified needs:** Workers are required to identify children's needs through completion of Structured Decision Making forms, and to ensure service provision commensurate with those identified needs. The OCO made seven findings related to lack of provision of needed services to children in foster care during this report period.



## 2003-2004 OCO Annual Report Recommendations and MDHS Responses

### 1. Achieving Timely Permanency for Children

- 1a. The OCO recommends that MDHS review all foster care cases for compliance with state and federal mandates and MDHS policies:

MDHS should identify foster care cases that are out of compliance with:

- The ASFA and MDHS policy CFF 722-7 requiring MDHS to file a petition after a child has been in foster care for 15 months, unless there are compelling reasons.
- MDHS policy CFF 722-9A requiring the permanency recommendation to the court be consistent with the outcome of the Reunification Assessment Planning Decision.

When non-compliance is identified, MDHS should implement a specific action plan to bring these cases into compliance with the identified laws and policies towards achieving permanency.

#### MDHS Response to Recommendation 1a:

**Agree in part.** MDHS child welfare supervisors are currently responsible for reviewing and approving all updated service plans across the state. Appropriate supervisory case review provides the necessary oversight to ensure policy compliance. Additionally, zone specialists conduct extensive foster care case readings to ensure compliance and this practice will continue. A plan is also being developed requiring zone specialists to complete case readings for policy and law compliance specifically related to permanency. A specific corrective action plan will be developed for those cases found to be non-compliant. These reviews will commence by 9/30/05.

Because MDHS agrees that achieving timely permanency for children is crucial, additional improvements related to permanency planning will occur with the implementation of the Services Worker Support System-Case Management System (SWSS-CMS) application for foster care cases. SWSS-CMS will automatically generate the appropriate permanency recommendation based on the documentation in the Family Reunification Assessment. Any overrides to the permanency plan require supervisory approval. A separate and enhanced system SWSS Foster Care Adoption Juvenile Justice (SWSS-FAJ), when implemented, will automatically calculate the number of consecutive months a child has been in out-of-home placement and will document the results in the service plan. In addition, the legal module of SWSS-FAJ will require the foster care worker to address the filing of a termination petition when a child has been in out-of-home care for 15 of the last 22 months as required by ASFA and MDHS policy (CFF 722-7).

**1b. The OCO recommends that MDHS establish a Hierarchy of Review for each child's case.**

MDHS should establish a hierarchy of supervisory oversight of all temporary ward foster care cases that occurs at designated intervals and includes development of a specific plan of action to overcome identified barriers and achieve permanency within a specified time frame. For example, after a child has been in care for 12 months, the permanency plan should be reviewed by the Program Manager; after 15 months in care the case plan should be reviewed by the District Manager/County Director. After a child has been in care for 18 months and every 3 months thereafter, the case should go to the zone office for review and be reviewed by the zone office until the child has achieved permanency.

**MDHS Response to Recommendation 1b:**

**Agree.** MDHS will develop a hierarchy of supervisory oversight, specific to permanency issues for children. Currently, MDHS provides supervisory oversight of all cases. Foster care supervisors review cases for policy and law compliance at least quarterly via the Updated Service Plan, and often more frequently for court hearings. Zone offices will seek local office input on establishing a hierarchy by 10/1/05. A process for developing a hierarchy of supervisory oversight of a foster care case will be established by 12/30/05.

**1c. The OCO recommends that MDHS establish zone review of problematic court orders.**

In foster care policy 722-1 p. 11, MDHS should add a new section to provide guidance to workers in dealing with problematic court orders regarding permanency, specifically those court orders which "conflict with the MDHS assessment regarding the child's best interest." This policy should require these court decisions be automatically reviewed by the zone office to determine whether an appeal should be filed, rather than at the local MDHS office, where there may be reluctance to challenge a court order.

**MDHS Response to Recommendation 1c:**

**Agree in part.** MDHS policy (CFF 722-1) already requires the local office to bring problematic court orders to the attention of the zone. However, MDHS will establish procedures requiring second line managers to review all court orders that unnecessarily delay permanency. These procedures will be in place by 1/1/06 and will facilitate the early identification of problematic court orders for appropriate zone review.

**1d. The OCO recommends that MDHS file for termination as soon as grounds exist or when required by the Structured Decision-Making (SDM) tools.**

Policy should be established stating that when SDM policy recommendations require MDHS or its contracted child-placing agency to change the recommended permanency plan from reunification to adoption, the agency must file the petition requesting termination of parental rights with the court or

submit it to the assistant prosecuting attorney or assistant attorney general within 21 days of changing the permanency plan. The OCO has reviewed cases where MDHS changed the permanency plan from return home to adoption, but waited until the Permanency Planning Hearing (PPH) to file the supplemental petition requesting termination of parental rights. By filing the petition for termination within 21 days of the agency's decision to pursue Termination of Parental Rights (TPR), the next court hearing may serve as both the PPH and a pre-trial on the petition for termination.

**MDHS Response to Recommendation 1d:**

**Agree in part.** Local MDHS offices have different procedures for filing termination petitions. In some local offices, the foster care worker writes the petition and files it directly with the court; in others, the prosecuting attorney or assistant attorney general writes and files the petition. However, MDHS concurs with the need to expedite the filing process when indicated. Therefore, MDHS will change foster care policy to require the foster care worker or designee to initiate the local process for filing a termination petition within 21 days of the department's decision to pursue termination.

**1e. The OCO recommends that MDHS provide leadership in establishing local permanency teams.**

Each county MDHS director should provide leadership in establishing a local permanency team that includes representatives with decision-making authority from the courts, MDHS, private child-placing agencies, the Prosecuting Attorney's Office,<sup>3</sup> and Foster Care Review Boards. The goal of these teams is to identify the systemic and interface barriers to achieving permanency for children placed through the county and to facilitate an inter-agency plan to resolve the identified barriers.<sup>4</sup>

**MDHS Response to Recommendation 1e:**

**Agree.** Local office MDHS directors will work to establish local permanency teams by requesting the participation of their community partners by 1/1/06. These local teams will be designed to assist in identification of local systemic barriers to permanency for children in foster care and facilitate an interagency plan to resolve these barriers.

**1f. The OCO recommends that MDHS support the modification of court rules to require a permanency decision at each review hearing.**

MCR 3.976(B)(3) should be modified to require the court to address the issue of permanency at each dispositional review hearing following the initial PPH and review the agency's specific plan and timetable to achieve permanency for the child. Current court rules state that the interval between PPHs is not to

<sup>3</sup> The Attorney General's Office in Wayne County.

<sup>4</sup> Examples of these barriers are: differing interpretations of statutes, the lack of understanding of child development, poor relationship among child welfare practitioners, DHS not being represented by counsel, too many court adjournments, and DHS or private agencies not requesting termination when grounds exist.

exceed 12 months, and specifically allows, "the court may combine the permanency planning hearing with a dispositional review hearing." However, after the initial PPH, courts often wait the full 12 months to hold a subsequent PPH to again address the child's need for permanency. This has resulted in continued and extended temporary foster care placement without a specific timetable or plan for achieving permanency.

**MDHS Response to Recommendation 1f:**

**Agree.** MDHS supports modifying MCR 3.976(B)(3) to better address the issue of permanency for children.

**1g. The OCO recommends that MDHS support the establishment of model permanency courts in Michigan.<sup>5</sup>**

The Governor, Legislature, and Supreme Court should consider establishing Model Permanency Courts in Michigan. These courts currently operate in Chicago, Tucson, Los Angeles, Des Moines, Salt Lake City, and other cities, and specifically focus on the needs of children and families in foster care. Model Courts are engaged in implementing new policies, practices, and programs aimed at providing focused oversight of families and the achievement of timely permanency for children. In addition, heightened awareness of "foster care drift" has led to the implementation of best practices, including vigorous representation of all parties and reduced continuances.

**Rationale:** Despite federal and state laws enacted during the 1990s to reduce the length of time a child spends in temporary foster care, the median length of time in care for a child in Michigan has steadily increased. In 1998, prior to full implementation of the federal Adoption and Safe Families Act (ASFA) and the Michigan Binsfeld legislation, the median length of time a child spent in temporary foster care was 13.5 months. In 2000, the median was 14.7 months, and in 2002, the median rose to approximately 15 months. The OCO has reviewed cases where many children have remained in care for two, three, or even more years. Reducing length of time in care requires collaboration and cooperation among MDHS, private child-placing agencies, legislators, service providers, and the legal and judicial systems.

**MDHS Response to Recommendation 1g:**

**Agree in part.** MDHS supports implementation of new policies, practices and programs aimed at providing focused oversight of families and the achievement of timely permanency for children. However, resource availability remains an issue that must be dealt with both locally and statewide. Also, the OCO's Rationale states that the median length of stay in foster care for children in placement has increased from 13.5 months to 14.7 months, yet, it is noteworthy that Michigan is significantly lower than the national average of 20 months.

<sup>5</sup> The Model Courts Project is funded under Section 223(a) of Public Law 101-647 (104 Stat. 4797), the Victims of Child Abuse Act of 1990, as amended in Title III, Section 1302 of the Violence Against Women Act of 2000. The Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, and U.S. Department of Justice have provided support.



## **2. Frequency and Quality of Parenting Time**

- 2a. The OCO recommends that MDHS increase frequency of parenting time for infants and very young children and implement specific policy guidelines to ensure that the frequency and quality of parenting time meets the developmental needs of infants and very young children, consistent with the recommendations of infant mental health specialists:
- If the child is under 16 months, and the permanency plan is reunification with the parent(s), parenting time between the child and his or her parent(s) should be not less than once every two days.
  - If the child is between 16 months and 36 months, and the permanency plan is reunification with the parent(s), parenting time between the child and his or her parent(s) should be not less than once every three days.
  - If the child is between 3 years and 5 years, and the permanency plan is reunification with the parent(s), parenting time between the child and his or her parent(s) should be not less than twice every seven days.
  - If the child is five years or older, and the permanency plan is reunification with the parent(s), parenting time between the child and his or her parent(s) should be not less than once every seven days.

### **MDHS Response to Recommendation 2a:**

**Agree in part.** MDHS supports the assertion that more frequent parenting time, especially for young children, is beneficial. However, MDHS does not have the staffing resources or facilities to provide the frequency and oversight that this recommendation requires. MDHS will explore options that may alleviate the need for direct supervision by MDHS personnel for increased visits. As Family to Family principles continue to be implemented across the state, Team Decision Meetings (TDM) can be used to identify resources that may be of assistance in providing supervised visitation.

- 2b. The OCO recommends that MDHS create a statewide Parenting Time work group whose purpose will be to develop, by June 30, 2006, an implementation plan to:
- Engage foster parents in accommodating increased parenting time without jeopardizing foster parent retention.
  - Involve community partners in providing and supervising increased parenting time.
  - Support parents in meeting more frequent parenting time schedules by addressing transportation and scheduling issues, among others.
  - Develop and implement supportive parenting concepts and other best practice methods to improve the quality of parenting time for children and parents.
  - Define factors that workers should consider when evaluating parenting time and recommending supervised versus unsupervised parenting time.

**Rationale:** State law requires parenting time to occur not less than once every seven days. MDHS policy encourages more frequent parenting time and identifies a positive relationship between frequency of parenting time and the likelihood of reunification. Policy does not provide sufficient requirements or guidelines to workers regarding the parenting time needs of infants and young children or steps that should be taken to enhance parenting time.

Infant mental health experts recommend that infants and very young children in foster care require more frequent contact with their parents in order to promote healthy attachment and emotional well-being.

#### **MDHS Response to Recommendation 2b:**

**Disagree.** Although the intent behind the OCO's recommendation is laudable, MDHS currently uses the Service Delivery Workgroup, which is chaired by Foster Care Program Office, to manage issues related to foster parents and relative care providers. This workgroup will work on the development of strategies to assist local offices in addressing their needs and resources related to supporting frequent parenting time. Additionally, as local office directors establish local permanency teams, this issue will be brought into the discussion for potential solutions (see MDHS response to Recommendation 1e of this report).

### ***3. Placement/Familial Connections***

#### **3a. The OCO recommends MDHS implement strategies to increase compliance with the following laws and policies to ensure the stability of a child's placement and facilitate familial connections for children in foster care:**

- Laws and policy requiring workers to identify, locate, and assess relatives for placement within 90 days of removal.<sup>6</sup>
- Law and policy outlining the placement selection criteria that must be considered when a child is initially removed from home.<sup>7</sup>
- Policy governing acceptable reasons to replace a child from one home to another and law and policy governing the process of replacement.<sup>8</sup>
- Policies that require that the relationship between siblings be maintained when siblings are placed apart from one another.<sup>9</sup>

<sup>6</sup> MCL 722.954a(2), MCL 712.13a(9), and DHS Policy CFF 722-3.

<sup>7</sup> Child Placing Agency Rule 400.12404 and DHS Policy CFF 722-3.

<sup>8</sup> MCL 712A.13b, Child Placing Agency Rule 400.12405, and DHS Policy CFF 722-3.

<sup>9</sup> DHS Policies CFF 722-2, 722-3, 722-8C.

### MDHS Response to Recommendation 3a:

**Agree in part.** The MDHS is committed to ensuring that children in foster care have stability during placement and that familial connections are facilitated. MDHS has implemented several strategies aimed at fulfilling this commitment; however, more can be done. MDHS is in the process of implementing additional strategies to increase compliance with law and policy.

- MDHS zone staff are responsible for monitoring compliance and they will continue to read a random selection of child welfare cases to ensure that local office staff meet policy and law requirements.
- As a part of the Michigan Child and Family Services Review process, the largest county offices are reviewed using federal review standards and processes that incorporate compliance with policy, practice and law toward the goal of stable placements and the facilitation and maintenance of familial connections.
- MDHS is completing a statewide rollout of Family to Family principles. These principles, when applied to service delivery for children and families, include familial input through attendance at Team Decision Making (TDM) meetings. A TDM takes place when:
  1. Removal of a child from the parent is being considered;
  2. There is a change of foster care placement; and/or
  3. There is consideration of returning the child home.
- Team Decision Making meetings provide for the thorough review of all resources and supports that would assist the family in:
  - Maintaining children safely in their own home.
  - Determining if placement with relatives is an option for the children.
  - Using the family's natural support system to ensure the needs of the family are met.
  - Developing a plan, with input from the family, to ensure that family connections and bonding is appropriately maintained.

Currently there are 18 counties that have fully implemented Family to Family and 17 counties in the process of implementation. MDHS expects additional counties will begin implementation during 2006, with statewide use of Family to Family during 2007.

- The proposed October 2005 foster care policy revision specifically addresses the placement of siblings. The new policy will require workers to give preference to placement of a child with a sibling when multiple placement options exist, such as placement with an adult relative versus placement with a sibling(s). The new policy will also address newborn sibling placement with a sibling(s) who is in a foster or adoptive home following termination. Policy will clearly establish that children of the same biological parent(s) continue to be related by blood even after termination or adoption. It will also clearly require written second line supervisory approval for a placement that separates or maintains separation of siblings from a newborn child.



- 3b. The OCO recommends MDHS develop a uniform definition of “relative” to apply across all child welfare programs (CPS, FC, Adoption, and Licensing) and add the definition of “sibling,” as it appears in MDHS Adoption policy to FC and CPS policy.

**MDHS Response to Recommendation 3b:**

**Agree.** In December 2004, the definition of relative was amended in the Probate Code, 1939 Act 288, MCL 712A.13a to state:

“Relative” means an individual who is at least 18 years of age and related to the child by blood, marriage, or adoption, as grandparent, great-grandparent, great-great-grandparent, aunt or uncle, great-aunt or great-uncle, great-great-aunt or great-great-uncle, sibling, stepsibling, nephew or niece, first cousin or first cousin once removed, and the spouse of any of the above, even after the marriage has ended by death or divorce. A child may be placed with the parent of a man whom the court has found probable cause to believe is the putative father if there is no man with legally established rights to the child. A placement with the parent of a putative father under this subdivision is not to be construed as a finding of paternity or to confer legal standing on the putative father.

MDHS is working with the Office of Legislative Liaison to amend all other child welfare laws to include the identical definition. CPS and Foster Care program offices will also amend policy to ensure a uniform definition of relative.

Once the child welfare laws are amended, MDHS will amend our child welfare policies to ensure that a consistent definition of “sibling” is used across programs.

- 3c. The OCO recommends MDHS develop policy that would require workers to provide relative caretakers with information and referrals for support services that might help them care for a minor relative.

**Rationale:** The OCO has made numerous recommendations to MDHS in individual case reports and in previous annual reports to improve compliance with policies related to placement and replacement procedures. These issues were also identified in the federal Child and Family Services Review as needing improvement. Through complaint intake and investigation, the OCO continues to identify issues related to the placement and replacement of children in foster care, including the lack of thorough and timely relative home assessments and the lack of regular contacts among siblings. Lastly, the OCO continues to review cases where the various definitions of relatives and siblings are not consistently interpreted among agencies or programs, causing confusion and inconsistencies in practice.



### **MDHS Response to Recommendation 3c:**

**Agree.** MDHS is currently revising the Foster Parent Handbook to ensure that it includes information specific to relative providers. This handbook will be supplied to foster care providers, both relatives and licensed foster parents. In addition, MDHS has developed a pamphlet with information for relative care providers who may need information prior to placement, or immediately upon placement of a child(ren) in their home. Upon completion, CPS and foster care policy will require workers to distribute the pamphlet to relative providers.

**Epilogue:** It should be noted that current staffing resources could limit MDHS' ability to implement any initiatives as identified in this response. In calculating projected staffing resources for Fiscal Year 2006 based on staff allocated during 2005, staffing resources for Children's Protective Services will at best meet 76.03 percent of estimated staffing needs based on national standards and internal analysis. Foster care staff resources will at best meet 76.34 percent of estimated actual need based on national standards and on internal departmental analysis. Further budgetary reductions will likely exacerbate our ability to meet these staffing levels. In addition, if MDHS zone staff are eliminated, all responses pertaining to zone oversight cannot be realized.

## OCO Investigations by County

County	Number of OCO Investigations (FY 2004)	County	Number of OCO Investigations (FY 2004)
Alcona	0	Lake	3
Alger	1	Lapeer	1
Allegan	3	Leelanau	0
Alpena	0	Lenawee	1
Antrim	2	Livingston	0
Arenac	0	Luce	0
Baraga	0	Mackinac	0
Barry	1	Macomb	2
Bay	1	Manistee	1
Benzie	0	Marquette	3
Berrien	1	Mason	0
Branch	1	Mecosta	5
Calhoun	1	Menominee	0
Cass	0	Midland	2
Charlevoix	0	Missaukee	0
Cheboygan	0	Monroe	4
Chippewa	1	Montcalm	3
Clare	2	Montmorency	0
Clinton	1	Muskegon	2
Crawford	1	Newaygo	1
Delta	1	Oakland	11
Dickinson	1	Oceana	0
Eaton	2	Ogemaw	0
Emmett	1	Ontonagon	0
Genesee	17	Osceola	0
Gladwin	1	Oscoda	0
Gogebic	0	Otsego	0
Grand Traverse	4	Ottawa	0
Gratiot	0	Presque Isle	1
Hillsdale	1	Roscommon	0
Houghton	0	Saginaw	0
Huron	0	St. Clair	5
Ingham	9	St. Joseph	2
Ionia	2	Sanilac	0
Iosco	4	Schoolcraft	0
Iron	1	Shiawassee	1
Isabella	3	Tuscola	1
Jackson	4	Van Buren	1
Kalamazoo	8	Washtenaw	2
Kalkaska	0	Wayne	44
Kent	9	Wexford	0
Keweenaw	0		
		<b>Total</b>	<b>180<sup>10</sup></b>

<sup>10</sup> Some investigations included more than one county.

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